

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**JEFFREY MACK,**

**Plaintiff,**

**- v -**

**9:04-CV-588  
(NAM/RFT)**

**P. GRIFFIN, Captain, Eastern Correctional Facility,**

**Defendant.**  
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**APPEARANCES:**

Jeffrey Mack  
Plaintiff, *Pro Se*

Hon. Eliot Spitzer, Attorney General for the State of New York  
Kelly L. Munkwitz, Esq., Assistant Attorney General  
The Capitol  
Albany, New York 12224  
Attorney for Defendant

**Hon. Norman A. Mordue, Chief U.S. District Judge**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff, an inmate in the custody of the New York State Department of Correctional Services (“DOCS”), brought this action under 42 U.S.C. § 1983. Defendant’s motion for summary judgment (Dkt. No. 17) was referred to United States Magistrate Judge Randolph F. Treece for a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72.3(c).

In a thorough Report and Recommendation (Dkt. No. 21), Magistrate Judge Treece recommends that defendant’s summary judgment motion be granted. Plaintiff has interposed an objection to the Report and Recommendation (Dkt. No. 22). Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court conducts a *de novo* review of those parts of a magistrate judge’s Report

and Recommendation to which a party specifically objects. Where only general objections are filed, the Court reviews for clear error. *See Brown v. Peters*, 1997 WL 599355,\*2-\*3 (N.D.N.Y.), *aff'd without op.*, 175 F.3d 1007 (2d Cir. 1999). Failure to object to any portion of a Report and Recommendation waives further judicial review of the matters therein. *See Roldan v. Racette*, 984 F.2d 85, 89 (2d Cir. 1993).

In his objection, plaintiff disputes only so much of the Report and Recommendation as concerns his First Amendment claims. On *de novo* review of this aspect of the Report and Recommendation, the Court finds that plaintiff has failed to demonstrate that defendant's restriction on the manner of tying back his beard is an infringement on his religious belief as a Muslim. Nor is there any evidence – direct or circumstantial – supporting a finding that the misbehavior report filed against him by defendant was filed in retaliation for plaintiff's grievances or for his beard.

It is therefore

ORDERED that the Report and Recommendation by United States Magistrate Judge Randolph F. Treece (Dkt. No. 21) is accepted and adopted; and it is further

ORDERED that defendant's motion for summary judgment (Dkt. No. 17) is granted and the action dismissed.

IT IS SO ORDERED.

September 27, 2006  
Syracuse, New York

  
Norman A. Mordue  
Chief United States District Court Judge